

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 37, 40, 42-44, 48, 50, 51, 53, and 73 are pending in the present application, Claims 48 and 50 having been withdrawn, Claims 37, 40, 42-44, and 48 having been amended, and Claims 41 and 74 having been canceled without prejudice or disclaimer.

Support for the present amendment is found, for example, at Figs. 1-2, and page 10, lines 9-13. No new matter is added.

In the outstanding Office Action, Claims 37, 40-44, 51, 53, 73, and 74 were rejected under 35 U.S.C. 103(a) as unpatentable over Amada et al. (JP 2001-221799, hereinafter Amada) in view of Colin et al. (U.S. Patent No. 5,925,573, hereinafter Colin); and Claims 37, 40-44, 51, 53, and 74 were rejected under 35 U.S.C. §103(a) as unpatentable over Huang et al. (U.S. Patent Publication No. 2006/0024732, hereinafter Huang) in view of Colin).

Applicants respectfully submit that amended Claim 37 patentably distinguishes over a proper combination of Amada and Colin for at least the reasons stated below. Claim 37 recites, *inter alia*,

after forming the initial residue at the bottom of the first receptacle, ***dividing the initial residue into a plurality of residues by linearly displacing a second magnetic mechanism, which causes the initial residue to enter into channels connecting the first receptacle to the second receptacles and to divide into the plurality of residues.***

A proper combination of Amada and Colin do not disclose this feature.

Page 3 of the Office Action states “Amada is silent as to the use of two separate magnetic mechanisms, one for attraction and one for motion.” Furthermore, Amada does not divide the residue by linearly displacing the second magnetic mechanism as described in amended Claim 37. Based on paragraphs [0082]-[0084], [0103], and [0106], Amada does not

divide a residue *into a plurality of residues by linearly displacing a second magnetic mechanism, which causes the initial residue to enter into channels connecting the first receptacle to the second receptacles and to divide into the plurality of residues.*

Colin does not cure this deficiency in Amada. In the embodiment shown in Colin's Fig. 3, there is a well 15 for receiving a sample. At this stage, the magnetic reagent is not added. The magnetic reagent is added at incubation wells 16.¹ Thus, the first well is only adapted to receive the liquid sample. The fluid division is made upstream with respect to well 15. The magnetic elements 3 in Colin are used to transfer the intermediate complexes in second wells 16a-16j towards reading wells 17.² However, magnetic elements 3 do not cause the sample to enter into the channels and do not divide the sample. Thus, Colin does not divide a residue *into a plurality of residues by linearly displacing a second magnetic mechanism, which causes the initial residue to enter into channels connecting the first receptacle to the second receptacles and to divide into the plurality of residues.*

Given the deficiencies in both Amada and Colin, a person of ordinary skill in the art could not properly combine these references to arrive at the invention defined by amended Claim 37. Therefore, Applicants respectfully submit that amended Claim 37 (and any claims dependent thereon) patentably distinguish over a proper combination of Amada and Colin.

Applicants also respectfully submit that amended Claim 37 patentably distinguishes over a proper combination of Huang and Colin. Initially, it is noted that page 6 of the Office Action states “note Applicant hasn’t specified forming the residue on the bottom” (emphasis in original). Claim 37 is amended to recite that the residue is formed on the bottom.

Paragraph [0144] of Huang describes a large neodymium magnet at the outlet of the channel that is used to draw the MicroDisks into the channel. However, this does not describe linearly displacing the magnet as described in amended Claim 37.

¹ Colin, col. 3, lines 36-43, and col. 10, lines 15-20.

² Colin, col. 10, lines 20-30.

It is noted that paragraph [0139] of Huang refers to a “mobile permanent magnet.” In this context, mobile means rotating and not linearly displaced. This is evidenced by paragraph [0139] describing a magnetic field generating means suitable to rotating the microdevices. Thus, paragraph [0139] of Huang does not describe linearly displacing the magnet as described in amended Claim 37.

Therefore, Huang does not divide a residue *into a plurality of residues by linearly displacing a second magnetic mechanism, which causes the initial residue to enter into channels connecting the first receptacle to the second receptacles and to divide into the plurality of residues.*

Colin, as characterized above, fails to remedy this deficiency. Given the deficiencies in both Huang and Colin, a person of ordinary skill in the art could not properly combine these references to arrive at the invention defined by amended Claim 37. Therefore, Applicants respectfully submit that amended Claim 37 (and any claims dependent thereon) patentably distinguish over a proper combination of Huang and Colin.

Consequently, in light of the above discussion, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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